Remarks/Arguments

In the non-final Office Action dated October 12, 2011, it is noted that claims 1-13 are pending in the application and stand rejected.

Claims 1, 11 and 12 are independent. The independent claims have been amended to include the features of dependent claim 7. Claim 7 is canceled herein without prejudice. No new subject matter has been added.

Cited art

The following references have been cited and applied in the present Office Action: U.S. Patent Number 7,268,791 to Jannink ("Jannink"), U.S. Patent Application Publication 2003/0020237 to Boateng ("Boateng"), and U.S. Patent Application Publication 2002/0040326 to Spratt ("Spratt").

Claim rejections - 35 U.S.C. 103

Claims 1-7 and 9-13 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Jannink in view of Boateng. Claim 8 stands rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Jannink in view of Boateng and further in view of Spratt. Applicants respectfully traverse these rejections.

Claim 1

Applicants' claim 1 is amended herein to incorporate the features of prior claim 7.

Claim 1 requires in part: "wherein the processor is further configured to use, for the proximity order relation, at least one of the relations based on: a number of identical terms in the contents, a number of similar terms for a predefined part of the contents, a difference in dates in the contents, a number of similar graphic patterns in the contents, and a number of similar sound patterns in the contents."

With respect to prior claim 1, the Office Action at the middle of page 8 acknowledges that Jannink, col 3, lines 58-62 and col. 4, lines 4-16, and Fig.

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1 teaches "in accordance with at least one proximity order relation based on contents of the selected data."

The Office appears to consider the objective and subjective criteria related to The Beatles as equivalent to the claimed proximity order relation.

Applicants respectfully traverse this rejection.

Claim 1 is amended by incorporating the features of prior claim 7 such that the processor is further configured to use, for the proximity order relation, at least one of the relations based on: <u>a number of identical terms in the contents</u>, <u>a number of similar terms for a predefined part of the contents</u>, <u>a difference in dates in the contents</u>, <u>a number of similar graphic patterns in the contents</u>, and <u>a number of similar sound patterns in the contents</u>.

Applicants respectfully submit that Jannink does not teach or suggest such features of claim 1.

The Office Action at page 13 alleges that Jannink, col 3, lines 58-62 and col. 4, lines 4-16, and Fig. 1, teaches these features.

Jannink, col 3, lines 58-62 and col. 4, lines 4-16 appears to suggest that the strength of a relationship between items can be computed using certain criteria. Such criteria may include for example, the era in which the bands played (e.g. 1960's), the genre of the music, how well the bands are liked based on user feedback, and how often the two bands appear together in radio station playlists.

Applicants respectfully submit that this is completely different from the claimed invention. For instance, Jannink seems to teach that the strength of the relationship is determined by objective and subjective criteria which are external or incidental to the item. In other words, the era in which the bands played, the genre of music, are externally generated criteria which are attached to the item.

In contrast to Jannink, claim 1 requires that at least one of the relations is based on criteria which are inherent to the <u>content</u> itself. For example, the date of the contents and graphic patterns in the contents are intrinsic or inherent attributes of the content itself.

For the reasons discussed above, Applicants respectfully submit that Jannink does not suggest all the features of claim 1.

Boateng relates to a word game using a deck of playing cards and dice, which allegedly may be embodied as an electronic or computer game in which letters stored in memory and number position and left-right indication are randomly presented upon user request. However, Boateng does not cure the deficiencies of Jannink with respect to claim 1. Furthermore, the Office does not rely on Boateng for suggesting the features of the processor is further configured to use, for the proximity order relation, at least one of the relations based on: a number of identical terms in the contents, a number of similar terms for a predefined part of the contents, a difference in dates in the contents, a number of similar graphic patterns in the contents, and a number of similar sound patterns in the contents. Therefore, claim 1 is patentable over the combination of Jannink and Boateng, and the rejection under 35 U.S.C. 103(a) should be withdrawn.

Claims 11 and 12

Independent claims 11 and 12 are different from claim 1 and must be evaluated and interpreted differently from claim 1.

Claim 11 includes, in part, the features of a processor configured to use, for the proximity order relation, at least one of the relations based on: a number of identical terms in the contents, a number of similar terms for a predefined part of the contents, a difference in dates in the contents, a number of similar graphic patterns in the contents, and a number of similar sound patterns in the contents.

Claim 12 includes, in part, the features of using, for the proximity order relation, at least one of the relations based on: a number of identical terms in the contents, a number of similar terms for a predefined part of the contents, a difference in dates in the contents, a number of similar graphic patterns in the contents, and a number of similar sound patterns in the contents.

Applicants apply the above reasoning for claim 1 to the specific interpretations of each of claims 11 and 12. For at least the reasons discussed above, the combination of Jannink and Boateng does not suggest or teach the features as noted above and as required in independent claims 11 and 12. Therefore, claims 11 and 12 are allowable under 35 U.S.C. 103(a).

<u>Claims 2-6, 9, 10, 12, and 13</u>

Each of dependent claims 2-6, 9, 10, and 13 ultimately depend from and includes all the features of either allowable claim 1 or 12. Furthermore, each dependent claim includes additional distinguishing features. For each dependent claim, Applicants apply the above arguments from claim 1 or claim 12 to each respective dependent claim. Thus, Applicants respectfully submit that dependent claims 2-6, 9, 10, and 13 are allowable at least by virtue of their dependency on an allowable parent claim.

<u>Claim 7</u>

Claim 7 is cancelled herein and as such the rejection is moot.

<u>Claim 8</u>

Dependent claim 8 depends from allowable claim 1 and incorporates all of the respective features of claim 1, in addition to containing further distinguishing patentable features.

Spratt does not cure the deficiencies of Jannink and Boateng as noted above with respect to claim 1.

Spratt discloses a method for selecting categorized content items for downloading to a mobile device. The method allegedly involves monitoring, use of content items and providing an indication of the use of the content items. However, there is no hint or indication in Spratt's disclosure of the processor is further configured to use, for the proximity order relation, at least one of the relations based on: a number of identical terms in the contents, a number of similar terms for a predefined part of the contents, a difference in dates in the contents, a number of similar graphic patterns in the contents, and a number of similar sound patterns in the contents.

Therefore, for at least the same reasons discussed above with respect to claim 1, the combination of Jannink, Boateng, and Spratt does not teach or even suggest all the features of claim 8.

Hence, withdrawal of the rejection to claim 8 under 35 U.S.C. 103(a) and early allowance is respectfully requested.

Applicants respectfully submit that the rejection of claims 1-13 under 35 U.S.C. §103(a) has been traversed and request the withdrawal of the rejections.

Conclusion

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration of the application, and allowance of all the claims are respectfully solicited.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 07-0832.

Respectfully submitted,

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